UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,091	06/20/2003	David W. Gohl	163.1769US01	9151

23552 7590 03/02/2006

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

EXAMINER	
DOUYON, LORNA M	

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/600,091	GOHL ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *December 20, 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *30-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *30-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. This action is responsive to the amendment filed on December 20, 2005.

2. Claims 30-36 are pending.

3. The objection to claims 20-23 under 37 CFR 1.75 as being a substantial duplicate of claims 33-36, respectively, is withdrawn in view of Applicants' cancellation of said claims.

4. The rejection of claims 20-21 and 30-34 under 35 U.S.C. 102(b) as being anticipated by Farrington et al. (US Patent No. 5,219,370) is withdrawn in view of Applicants' amendment.

5. The rejection of claims 22-23 and 35-36 under 35 U.S.C. 103(a) as being unpatentable over Farrington in view of Spendel (US Patent No. 4,489,455) is withdrawn in view of Applicants' amendment.

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marple (US Patent No. 3,197,980).

Marple teaches cleaning and laundering and more specifically automatically laundering a batch of materials through a programmed sequence of a cycle which is particularly characterized by exposure of the materials to a superwashing step involving the use of a concentrated laundry

liquid (see col. 1, lines 10-18). Marple also teaches an apparatus for automatically cycling a batch of materials through a series of sequenced steps which comprises filling the machine with a predetermined quantity of liquid or water to a high level as indicated by line **42** (see col. 1, lines 22-70), which may be seven gallons (see col. 2, lines 6-9), draining the water to approximately 3 ½ gallons (see col. 2, lines 64-71), supplying detergent to the reduced quantity of liquid to form a first relatively high concentrated detergent laundry solution equal to 0.40 to 0.50 percent of detergent by weight, (see claim 1), if desired, the level of the laundry liquid within the machine may be controlled so that the materials within the drum of the machine are wetted or saturated with the concentrated liquid while being elevated in the drum and the wetted materials then fall from a point near the top of the drum **41** for impact against the drum wall near the bottom thereof so that the impact forces or flushes some of the laundry liquid out of the materials (see col. 3, lines 65-75). This teaching reads on the step of removing a portion of the concentrated detergent laundry solution. Fresh liquid is added to the first concentrated laundry solution to establish a second laundry solution of a normally recommended detergent concentration equal to 0.20 to 0.25 percent of detergent by weight, and thereafter operate the apparatus to complete a normal laundry sequence (see claim 1). Marple also teaches that water flowing through conduit 37 is discharged through additive dispenser **38** which has been filled with the recommended charge of detergent (se col. 3, lines 7-10), and is discharged to the drum in the form of spraying. The apparatus comprises a drum rotatable on a horizontal axis (see claim 2). Marple, however, fails to specifically disclose the proportion of the concentrated detergent laundry solution in amounts as those recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the concentrated detergent laundry solution of Marple, prior to being diluted with water to form the first concentrated laundry solution, to be within those recited, i.e, at least about 15 wt%, because the resulting concentrated laundry solution which is 0.40 to 0.50 would have originated in a concentrated laundry solution which overlaps those recited.

8. Claims 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marple as applied to claims 30-35 above, and further in view of Spendel (US Patent No. 4,489,455).

Marple teaches the features as described above. Marple, however, fails to specifically disclose the detergent composition comprising a laundry finish or antimicrobial composition and wherein the treating comprises finishing or antimicrobial treating.

Spendel teaches a method of laundering textiles in a similar apparatus wherein the laundry detergent composition comprises other desirable auxiliary ingredients such as fabric softeners, antistatic agent (which are both finishing agents) and antibacterial agents (see col. 13, lines 54-56; col. 31, lines 6-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a finishing agent like fabric softeners and antistatic agent and/or antibacterial agent into the detergent composition of Marple to thereby cause finishing and antimicrobial cleaning because it is shown by Spendel that said ingredients are common additives in laundering textiles in a similar washing apparatus.

Double Patenting

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 30, 33-36 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17, 24 and 29 of U.S. Patent No. 6,897,188. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar methods for cleaning laundry which comprises concentrated detergent components and further comprises cationic surfactants (which are considered as both antimicrobial and finishing components) differing only in the present claims require a specific proportion of the concentrated cleaning composition. The washing step in US '188 also reads on the flushing step of the present claims. US '188, however, teaches a concentrate composition, hence, modification of the proportion of the amount of the concentrate is within the level of ordinary skill in the art.

11. Claims 31-32 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17 and 29 of U.S. Patent No. 6,897,188 in view of Farrington et al. (US Patent No. 5,219,370), hereinafter "Farrington".

US '188 teaches a similar method for cleaning laundry as recited above. US '188, however, fails to disclose treating or washing laundry in a wash wheel of horizontal axis washer; and the step of contacting by spraying.

Farrington teaches a method of washing fabric in a horizontal axis clothes washer (see col. 1, lines 6-9) which uses less energy and water (see col. 1, lines 10-13; line 62 to col. 2, line 1), which comprises the steps of rotating the washer chamber about its horizontal axis with fabric; directing a recirculating spray of concentrated detergent solution onto said fabric for a first period of time; diluting said concentrated detergent solution to a lesser detergent

concentration level; directing a recirculating spray of said lesser concentrated detergent solution onto fabric for a second period of time; and draining said lesser concentrated detergent solution from said wash chamber (see claim 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform the method of US '188 in a horizontal axis washer which includes spraying of the concentrated detergent solution onto the fabric because it is shown by Farrington that said steps provide the use of less energy.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered cumulative to or less material than those discussed above.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
Primary Examiner
Art Unit 1751